

Attorney's Docket No. 7899

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent application

In re application of: THOMAS M. WASCHER

Group Art Unit: _____

Serial No.: _____

Filed: March 2, 2004

For: MARKING CATHETER FOR PLACEMENT USING FRAMELESS
STEREOTAXY AND USE THEREOF

**Commissioner for Patents
Mail Stop Patent Applications
P.O. Box 1450
Alexandria, VA 22313-1450**

**TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT
WITHIN THREE MONTHS OF FILING OR BEFORE MAILING OF
FIRST OFFICE ACTION (37 CFR 1.97(b))**

NOTE: "An information disclosure statement shall be considered by the Office if filed: (1) within three months of the filing date of a national application; (2) within three months of the date of entry of the national stage as set forth in § 1.491 in an international application; or (3) before the mailing date of a first Office action on the merits, whichever event occurs last." 37 CFR 1.97(b).

NOTE: The "filing date of a national application" under 37 CFR 1.97(b) has two possible meanings. Where the filing is a direct one to the United States Patent & Trademark Office, the filing is defined in 37 CFR 1.53(b) as "the date on which: (1) A specification containing a description pursuant to § 1.71 and at least one claim pursuant to § 1.75; and (2) any drawing required by § 1.81(a), are filed in the Patent and Trademark Office in the name of the actual inventor or inventors as required by § 1.41." 37 CFR 1.97(b)(1). On the other hand, an international application that enters the national stage occurs when the applicant has filed the documents and fees required by 35 U.S.C. § 371(c) within the periods set forth in § 1.494 or § 1.495. 35 U.S.C. § 371(c) requires the filing of the following: (1) the national fee; (2) a copy of the international application, unless already sent by the International Bureau, and an English translation if filed in another language; (3) amendments under PCT Article 19, with a translation into English if made in another language; (4) an oath or declaration; and (5) a translation into English of any annexes to the International preliminary examination report, if such annexes were made in another language. 37 CFR 1.97(b)(2).

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8)

I hereby certify that this correspondence is, on the date shown below, being:

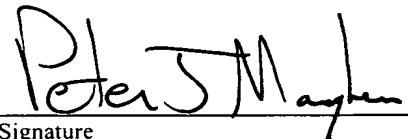
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IDENTIFICATION OF TIME OF FILING THE ACCOMPANYING INFORMATION DISCLOSURE STATEMENT

The information disclosure statement submitted herewith is being filed within three months of the filing date of the application or date of entry into the national stage of an international application or before the mailing date of a first Office action on the merits, whichever event occurs last. 37 CFR 1.97(b).

NOTE: *"No certification or fee is due when the filing is made within the above time period. It is advisable to ensure that no Office action has been mailed if the disclosure statement is delayed until after three months from filing."*

NOTE: *"An information disclosure statement will be considered to have been filed on the day it was received in the Office, or on an earlier date of a mailing if accompanied by a properly executed certificate of mailing under 37 CFR 1.8, or Express Mail certificate under 37 CFR 1.10. An Office action is mailed on the date indicated in the Office action." Notice of April 20, 1992 (1138 O.G. 37-41, 39).*

NOTE: *"The term 'national application' includes continuing applications (continuations, divisions, continuations-in-part) so three months will be measured from the actual filing date of an application as opposed [sic] to the effective date of a continuing application." Notice of April 20, 1992 (1138 O.G. 37-41, 39).*

NOTE: *"An action on the merits means an action which treats the patentability of the claims in an application, as opposed to only formal or procedural requirements. An action on the merits would, for example, contain a rejection or indication of allowability of a claim or claims rather than just a restriction requirement (37 CFR 1.142) or just a requirement for additional fees to have a claim considered (37 CFR 1.16(d)). Thus, if an application was filed on Jan. 1 and the first Office action on the merits was not mailed until six months later on July 1, the examiner would be required to consider any proper information disclosure statement filed prior to July 1." Notice of April 20, 1992 (1138 O.G. 37-41, 39).*

WARNING: *"A petition for suspension of action to allow applicant time to submit an information disclosure statement will be denied as failing to present good and sufficient reasons, since 37 CFR 1.97 provides adequate recourse for the timely submission of prior art for consideration by the examiner." Notice of July 6, 1992 (1141 O.G. 63).*

Dated: March 2, 2004

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CUSTOMER NO. 22922

Substitute for form 1449A/PTO				<i>Complete if Known</i>	
				Application Number	
				Filing Date	March 2, 2004
				First Named Inventor	Thomas M. Wascher
				Group Art Unit	
				Examiner Name	
Sheet	2	of	2	Attorney Docket Number	7899

OTHER PRIOR ART -- NON PATENT LITERATURE DOCUMENTS

Examiner Initials *	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ²
		Compass International, Inc., Jon S. Rousu, et al., Computer-Assisted Image Guided Surgery Using the Regulus™ Navigator, June 25, 2000, Rochester, Minnesota, printed from www.compass.com on January 8, 2004.	
		Lippincott Williams & Wilkins, Inc., Christopher Nimsky, et al., Quantification of, Visualization of, and Compensation for Brain Shift Using Intraoperative Magnetic Resonance Imaging, Neurosurgery, vol. 47, no. 5, pp. 1070-1080, November 2000, Hagerstown, Maryland.	
		BrainLAB AG, Neurosurgery, 2002, Munich, Germany.	
		Compass International, Inc., Cygnus-PFS Product Information, April 4, 2002, Rochester, Minnesota, printed from www.compass.com on January 8, 2004.	
		Lippincott Williams & Wilkins, Inc., Gene H. Barnett, Intraoperative Magnetic Resonance Imaging, Contemporary Neurosurgery, vol. 24, no. 15, pp. 1-6, July 31, 2002, Hagerstown, Maryland.	
		Frameless Stereotactic Surgery, printed from www.sd-neurosurgeon.com on January 8, 2004.	

Examiner Signature		Date Considered	
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¹EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

² Unique citation designation number (optional). ² Applicant is to place a check mark here if English language Translation is attached.

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